

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-84557; File No. SR-NYSEArca-2018-78)

November 8, 2018

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the NYSE Arca Equities Fees and Charges to Remove Certain Obsolete Text that References Pillar Phase I Protocols

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (“Act”)<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on November 1, 2018, NYSE Arca, Inc. (“Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Fees and Charges (“Fee Schedule”) to remove certain obsolete text that reference [sic] Pillar phase I protocols now that Pillar phase I protocols are no longer available for ETP Holders to communicate with the NYSE Arca Marketplace. The Exchange proposes to implement the fee changes effective November 1, 2018. The proposed rule change is available on the Exchange’s website at [www.nyse.com](http://www.nyse.com), at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements

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<sup>1</sup> 15 U.S.C.78s(b)(1).

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to remove certain obsolete text that reference Pillar phase I protocols now that Pillar phase I protocols are no longer available for ETP Holders to communicate with the NYSE Arca Marketplace. The Exchange proposes to implement the fee changes effective November 1, 2018.

As a general matter, ETP Holders enter orders and order instructions by using communication protocols that map to the order types and modifiers described in Exchange rules. Prior to the implementation of Pillar, ETP Holders communicated with the NYSE Arca Marketplace using Pillar phase I protocols. When the Exchange introduced trading on its Pillar trading platform, the Exchange also introduced new technology to support how ETP Holders communicate with the NYSE Arca Marketplace, referred to in the Exchange's rules as Pillar phase II protocols. During the Pillar implementation, there was a period of time when both Pillar phase I protocols and Pillar phase II protocols were available to ETP Holders. Effective October 1, 2018, Pillar phase I protocols are no longer available to ETP Holders. All ETP Holders now use Pillar phase II protocols to communicate with the NYSE Arca Marketplace. As a result, there is no longer a need to distinguish between Pillar phase I protocols and Pillar phase II protocols in the Exchange's Fee Schedule.

In April 2018, the Exchange filed a proposed rule change to adopt a new pricing tier -

BBO Setter Tier.<sup>4</sup> In the BBO Setter Tier Filing, the Exchange adopted the following rule text in the BBO Setter pricing tier: “For purpose of the BBO Setter Tier, ETP ID means an ETP ID when using Pillar phase I protocols to communicate with the NYSE Arca Marketplace or an MPID when using Pillar phase II protocols to communicate with the NYSE Arca Marketplace.” The Exchange proposes to remove this text from the Fee Schedule now that Pillar phase I protocols are no longer available and all ETP Holders now communicate with the NYSE Arca Marketplace using Pillar phase II protocols.

Additionally, in August 2017, in connection with the introduction of Pillar phase II protocols, the Exchange amended the Fee Schedule to adopt a cap, for August and September 2017, on monthly fees for the use of ports connecting to the NYSE Arca Marketplace.<sup>5</sup> Given that the months during which the port fee cap was applicable have passed, the Exchange proposes to delete reference to the port fee cap from the Fee Schedule as that rule text is now obsolete.

Finally, in October 2017, the Exchange amended the Fee Schedule to adopt a Decommission Extension Fee applicable to ETP Holders for the use of Pillar phase I protocols to connect with the NYSE Arca Marketplace for a three-month period from March 2018 through May 2018 as an incentive for ETP Holders to fully transition to the use of Pillar phase II protocols to connect with the NYSE Arca Marketplace.<sup>6</sup> In June 2018, the Exchange filed to extend the effectiveness of the Decommission Extension Fee for an additional four months, until

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<sup>4</sup> See Securities Exchange Act Release No. 83032 (April 11, 2017 [sic]), 83 FR 16909 (April 17, 2017 [sic]) (SR-NYSEArca-2018-20) (“BBO Setter Tier Filing”).

<sup>5</sup> See Securities Exchange Act Release No. 81573 (September 11, 2017), 82 FR 43430 (September 15, 2017) (SR-NYSEArca-2017-97).

<sup>6</sup> See Securities Exchange Act Release No. 81901 (October 19, 2017), 82 FR 49426 (October 25, 2017) (SR-NYSEArca-2017-121).

September 2018.<sup>7</sup> The Exchange proposes to remove rule text regarding the Decommission Extension Fee from the Fee Schedule as that rule text is now obsolete because the period of time during which the Decommission Extension Fee was applicable has passed.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,<sup>9</sup> in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to delete reference to obsolete rule text and dates from the Fee Schedule. The Exchange believes that the proposed changes are reasonable because they would result in greater specificity and precision within the Fee Schedule, which would contribute to reasonably ensuring that the fees and credits described there are clear and accurate. Specifically, the proposed changes are reasonable because they would remove obsolete rule text and dates from the Fee Schedule related to the use of ports that are no longer available to connect to the NYSE Arca Marketplace and a Decommission Extension Fee that is no longer charged by the Exchange. The Exchange also believes that the proposed changes are equitable and not unfairly discriminatory because all readers of the Fee Schedule, including all ETP Holders, would benefit from the increased specificity and clarity that this proposed rule change would provide.

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<sup>7</sup> See Securities Exchange Act Release No. 83410 (June 12, 2018), 83 FR 28300 (June 18, 2018) (SR-NYSEArca-2018-42).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(4) and (5).

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>10</sup> the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are not designed to address any competitive issues. Rather, the proposed changes are designed to provide greater specificity and precision within the Fee Schedule, which would contribute to reasonably ensuring that the fees and credits described therein are clear and accurate. In addition, the removal of obsolete text from the Fee Schedule would not have any impact on inter- or intra-market competition because the proposed change would result in a streamlined Fee Schedule without any impact on pricing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)<sup>11</sup> of the Act and subparagraph (f)(2) of Rule 19b-4<sup>12</sup> thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or

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<sup>10</sup> 15 U.S.C. 78f(b)(8).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>13</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2018-78 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2018-78. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be

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<sup>13</sup> 15 U.S.C. 78s(b)(2)(B).

available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2018-78 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>14</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>14</sup> 17 CFR 200.30–3(a)(12).